

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JESSE GUZMAN,
Petitioner,

VS.

RODNEY W. CHANDLER, Warden,
FMC-Carswell,
Respondent.

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CIVIL ACTION NO.4:13-CV-303-Y

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

Before the Court is the petition for writ of habeas corpus under 28 U.S.C. § 2241 of petitioner Jesse Guzman, along with the August 5, 2012 findings, conclusions, and recommendation of the United States magistrate judge. The magistrate judge gave the parties until August 26 to file written objections to the findings, conclusions, and recommendation. Guzman has filed a document he entitled a "Reply" to the magistrate judge's report, but in that document he recites that he "submits no objections to said magistrate's order." (August 20, 2013 Reply.)

The Court has reviewed the pleadings and the record in this case, and has reviewed for clear error the proposed findings, conclusions and recommendation. The Court concludes that the magistrate judge is correct: because Guzman's first claim--that the amount he owes in restitution should be reduced by the amount recovered by the victim bank--has already been resolved by the United States Court of Appeals for the Fifth Circuit and is thus moot; and because Guzman's second claim--that the sentencing court's order regarding restitution should be modified--must be pursued in the sentencing court, the petition for writ of habeas corpus should be dismissed without prejudice for lack of jurisdic-

tion.

Therefore, the findings, conclusions and recommendation of the magistrate judge are ADOPTED.

Jesse Guzman's petition for writ of habeas corpus under 28 U.S.C. § 2241 is DISMISSED without prejudice for lack of jurisdiction.

SIGNED August 28, 2013.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE